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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID LASIC, Jr.,

Plaintiff - Appellant,

v.

DANA MORENO; UNITED STATES OF
AMERICA; UNITED STATES POSTAL
SERVICE; MCM GROUP,

Defendants - Appellees.

No. 07-15363

D.C. No. CV-05-00161-DAD

MEMORANDUM *

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, District Judge, Presiding

Argued and Submitted October 20, 2008
San Francisco, California

Before: BEEZER, BYBEE, and BEA, Circuit Judges.

Plaintiff-Appellant David Lasic (“Lasic”) appeals the district court’s grant of summary judgment to Defendant-Appellee United States Postal Inspector Dana Moreno (“Moreno”) on Lasic’s sole claim of malicious prosecution. We have

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

jurisdiction under 28 U.S.C. § 1291. We review the district court's grant of summary judgment de novo. *Or. Natural Res. Council v. Allen*, 476 F.3d 1031, 1036 (9th Cir. 2007). We affirm.

The facts of the case are known to the parties and we do not repeat them here.

Lasic argues that the district court improperly concluded that Lasic could not overcome the presumption that the prosecutors exercised independent judgment in charging him. Lasic argues that Moreno (1) fabricated evidence, (2) acted maliciously, (3) acted in bad faith, (4) hid exculpatory emails and (5) induced the prosecutors to charge Lasic based solely on her prosecution referral. Lasic's arguments fail to overcome the presumption that the prosecutors exercised independent judgment. The prosecutor initially in charge of the case was thoroughly familiar with the evidence against Lasic and decided to charge Lasic with a different offense than that recommended by Inspector Moreno. None of the information obtained through the prosecution's witness interviews proved exonerating to Lasic. Further, the second prosecutor in the case reviewed Lasic's email correspondence with Inspector Moreno and decided to continue the prosecution.

AFFIRMED.